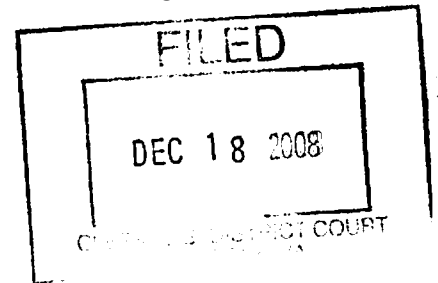


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



DOUGLAS ALAN JARVIS, #28654-004

Petitioner,

v.

2:08CV230

PATRICIA R. STANSBERRY,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner was convicted in January, 1991, in the United States District Court for the Southern District of Florida, of drug related offenses and was sentenced to 240 months imprisonment. In October, 1991, petitioner was convicted in this Court of conspiracy to possess and distribute cocaine, possession with intent to distribute cocaine, interstate travel in relation to distribution of cocaine, and distribution of cocaine. He was sentenced to 262 months imprisonment, which was to run concurrent with the Florida sentence. Petitioner seeks a reduction in his sentence, based on the fact that he suffers from Hepatitis C, and he alleges that he was not receiving what he considers to be the best treatment.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on October 30, 2008. By copy of the report, each party was advised of his right to file written objections

to the findings and recommendations made by the Magistrate Judge. The Court received from petitioner on December 11, 2008, objections to the report.

The Court, having reviewed the record and examined the objections filed by petitioner and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge. Therefore, it is ORDERED that the petition be DENIED and DISMISSED on the merits and that judgment be entered in respondent's favor.


Petitioner's objections are without merit. The statute upon which he relies, 18 U.S.C. § 3582(c)(1)(A)(1), vests absolute discretion in the Director of the Bureau of Prisons (BOP) to seek, or not seek, the early release of an inmate under certain conditions. The first condition is "extraordinary and compelling" reasons, and the second is when the inmate is of such an age and has served such a length of time that a determination can be made that the inmate poses no danger to the public. Neither circumstance is present in the case before the Court. Furthermore, petitioner has been released from custody and is completing his sentence at home, rendering his claims moot.

Petitioner alleges that the BOP withheld treatment of him, resulting in a deteriorated medical condition, and as a result, he has filed a civil action against the United States. That action is distinct from the matter now before the Court, does not enhance petitioner's position, and does not provide a basis for the relief he seeks.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such judgment. Petitioner has

failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for respondent.

  
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**Raymond A. Jackson**  
**United States District Judge**  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

December 18, 2008